

The 6th February, 1978

No. 976-3Lab.-78/1201.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s. Elson Cotton Mills, Private Ltd., Mathura Road, Ballabgarh :—

BEFORE SHRI NATHURAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 97 of 1975

between

SHRIMATI MUNI DEVI, WORKMAN, AND THE MANAGEMENT OF M/S. ELSON COTTON MILLS,  
PRIVATE LIMITED, MATHURA ROAD, BALLABGARH

Present.—

Shri Madhu Sudan Saran Cowshish, for the workman.

Shri R.N. Rai, for the management.

#### AWARD

By order No. ID/FD/75/33122, dated 9th June, 1975, the Governor of Haryana, referred the following dispute between the management of M/s. Elson Cotton Mills, Private Limited, Mathura Road, Ballabgarh and its workman Shrimati Muni Devi, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d), sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shrimati Muni Devi was justified and in order ? If not, to what relief is she entitled ?

On receipt of the order of reference notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties the following issues were framed by my learned predecessor on 9th March, 1976:—

- (1) Whether the workwoman voluntarily resigned her job on 4th July, 1974 and absented herself from duty thereafter ?
- (2) If not, whether the termination of her services was justified and in order ? If not, to what relief she is entitled ?
- (3) Whether Shri Amar Singh Sharma was duly authorised by Muni Devi to file claim statement on her behalf and represent her in the reference ?
- (4) Whether the written statement filed by the management has been signed by a proper person ?

The case was set for the evidence of the management.

The management examined Shri Jagdish Singh, Time-keeper as M.W. 1 and Shri Harish Nayar, General Manager as M.W. 2 and closed their case.

Then the case was fixed for the evidence of the workman. The workman examined Shri Chet Ram, Labour Inspector, as W.W. 1 and herself as W.W. 2 and closed her case.

The case was then fixed for arguments. Arguments were heard. I now give my findings issuewise.

#### Issue No. 1.—

H.W. 1 stated that the resignation Ex. M-2 was brought to him on 4th July, 1974 by the husband of the workman and the workman was not accompanying her husband. She put up this resignation before the Labour Officer who made endorsement Ex. M-2/A in his own handwriting and Shri K.N. Murti recommended the resignation for acceptance to Shri Harish Nayar who accepted it,—vide Ex. M-2/C. In cross-examination, he stated that the husband of the workman concerned was under suspension on 4th July, 1974, the date of resignation and denied the suggestion that un-dated resignation was obtained by the management from the workman at the time of employment. M.W. 2 stated that he received Ex. M-2 forwarded by his inferior officer and he accepted it and signed the acceptance. He further deposed that no part of the paper on which resignation was written had been torn by him. In cross-examination he admitted that the workman had complained to the Labour Inspector. He further admitted that he had not communicated the acceptance of the resignation to the workman but it must have been communicated because generally all the acceptance are communicated.

W.W. 1, the Labour Inspector deposed that the complaint, dated 9th July, 1974, was received from Textile Labour Association which he received on 10th July, 1974. He fixed the complaint for hearing on 16th July, 1974. He had brought the file also from the Faridabad office. He further deposed that the representative for the management had told that the workman had resigned on 4th July, 1974 and the workman could receive all her dues. He further deposed that the representative for the workman had told that the resignation had not been accepted till then and the workman be reinstated and the Labour Inspector advised the workman to raise a regular dispute as the management was not prepared to reinstate her. The Labour Inspector further deposed that the complaint which he had received related to Ex. M-2, the resignation. He had signed Ex. M-2. He further deposed that the resignation had not been accepted till then because by that time there were no remarks on it of acceptance. He further deposed that Ex. M-2 did not bear his signatures at the time he was deposing before this Tribunal. In cross-examination he stated that the workman concerned had not complained to him that some part of the papers on which resignation was written had been torn. Then the workman examined herself as W.W. 2 who deposed that she was quite illiterate and always thumb-marked and nowhere put her signatures and she even did not know to sign her name and that she was never warned or charge-sheeted. In cross-examination she stated that she did not remember any previous proceedings and therefore the question of admission or resignation did not arise.

The management prayed for placing the file of complaint No. 19 of 1974 which she had made under section 33-A of the Industrial Disputes Act. In the interest of justice that file was placed on the file of this reference. Ex. M-3 is a copy of the complaint that this workman had made under section 33-A of the Industrial Disputes Act, against the management.

I have gone through even the previous file of the said complaint under section 33-A of the Industrial Disputes Act. I have seen the resignation Ex. M-2. The date on it "4th July, 1974" does not seem to be in the hand of the writer of Ex. M-2, some difference in ink also seems to be there. This resignation is alleged to have been accepted on 18th July, 1974. M.W. 2 also stated that it was accepted on 18th July, 1974. On Ex. M-2 I do not find the signatures of the Labour Inspector. The part of the paper of Ex. M-2 seems to have been torn away. The acceptance of resignation on 18th July, 1974 is meaningless when the parties had appeared before the Labour Inspector on 16th July, 1974. The Labour Inspector is correct. When he saw Ex. M-2 there was no remarks of acceptance. How could there be these remarks "accepted" on 16th July, 1974 when M.W. 2 himself had stated that he accepted it on 18th July, 1974. It is clearly proved that the word accepted, initials of the acceptor and date put up by him 18th July 1974, were made after the parties had appeared before the Labour Inspector on the complaint relating to the said resignation Ex. M-2. This is no acceptance in law. The management accepted it after the complaint, in order to fill up their lacuna that the resignation had not been accepted till 16th July, 1974 i.e., till the time the workman had complaints to the Labour Inspector.

I cannot hold that the resignation was accepted at a proper time or it was communicated to the workman concerned, before the workman made a complaint to the Labour Inspector regarding this resignation. I do not hold, therefore, that the workman voluntarily resigned. The date "4th July, 1974" on Ex. M-2 raises a doubt that this date was put on Ex. M-2 afterwards, as the handwriting differs and ink also. The representative for the management argued that the question of resignation was raised by the management in previous proceedings under section 33-A of the Industrial Disputes Act and thereafter the workman did not appear and the complaint was dismissed. I have seen that file also. The representative for the workman made the following statement in that complaint. "In view of the plea taken by the management that Shrimati Muni Devi was not a workman concerned in reference No. 104 of 1971 for bonus for the year 1970-71, I have instructions not to press this complaint and the same may be disposed of accordingly," and thereafter that complaint was dismissed by my learned predecessor. The workman was employed on and from 21st February, 1972. She could not be a concerned workman under reference No. 104 of 1976 for bonus for the year 1970-71, hence the representative for the workman gave that statement. The representative for the workman under that complaint never and nowhere admitted the resignation. Therefore the plea of the representative for the management is not tenable and has no substance. I, therefore, decide issue No. 1 against the management.

#### Issue No. 2

As a result of my finding on issue No. 1, I decide issue No. 2 against the management. When I have decided issue No. 1 that the resignation was not voluntarily given and that the resignation was not accepted before the workman complained about it to the Labour Inspector, I have no option but to decide issue No. 2 against the management. I, therefore, decide issue No. 2 against the management.

#### Issues Nos. 3 and 4

The parties did not argue on these issues, hence I decide issue No. 3 in favour of the workmen and issue No. 4 in favour of the management.

As a result of my finding on the issues, I give my award as follows :—

That the termination of services of Shrimati Muni Devi was neither justified nor in order. She is entitled to reinstatement with continuity of service. In the claim statement the workman has not pleaded that she remained unemployed but prayed for full back wages. The management also did not take the plea that the workman was employed elsewhere. The parties have also not led any evidence on this point. Neither the workman concerned stated that she has remained unemployed throughout, nor the management has stated that she had been employed gainfully elsewhere. In the circumstances I think it would be justiciable if half back wages are awarded to the workman concerned. I, therefore, award reinstatement of the workman concerned with continuity of service and with half back wages.

NATHU RAM SHARMA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Dated the 23rd January, 1978.

No. 66, dated 24th January, 1978.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Dated the 24th January, 1978.

No. 980-3Lab-78/1215.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad.

In respect of the dispute between the workmen and the management of M/s Lakhmi Rattan Engineering Works, Ltd., Faridabad :—

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 110 of 1976

between

SHRI GANESH DUTT MISRA WORKMAN AND THE MANAGEMENT OF M/S LAKSHMI RATTAN  
ENGINEERING WORKS, LIMITED FARIDABAD.

Present.—

Shri Onkar Parshad for the workman.

Shri R.C. Sharma for the management

## AWARD

By order No. ID/FD/785-B-66/21461, dated 23rd June, 1976 the Governor of Haryana, referred the following dispute between the management of M/s Lakshmi Rattan Engineering works, Limited, Faridabad and its workman Shri Ganesh Dutt Misra to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the dismissal of Shri Ganesh Dutt Misra was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties the following issues were framed on 24th January, 1977 :—

- (1) Whether the termination of services of the workman concerned Shri Ganesh Dutt Misra was justified and in order? If not, to what relief is he entitled?

The case was fixed for the evidence of the management. The management examined Shri A.S. Sharma, the Enquiry Officer as M. W. 1 who proved his enquiry proceedings and the authority appointing him as enquiry officer and his enquiry findings. In cross examination he denied that he did not hold enquiry independently. He admitted that the enquiry proceedings in case of another workman Shri Harish Chander were written by him. The management also examined Shri S.L. Avasthi as M.W.2, another Enquiry Officer, who had also held the enquiry against the workmen concerned on some different charges. He also proved his enquiry proceedings, his findings. He stated that he had placed all the documents, produced before him, on the file of the enquiry. Both these witnesses testified to the correctness of their enquiry proceedings.

Then the case was set for the evidence of the workman. The workman examined himself as W.W. Ex. 1 who stated that he had no knowledge of the enquiry proceedings and that he knew Hindi only to the 3rd standard. He stated that enquiry was not as per truth and that it was more or less like a dictation by Mr. Avasthi the representative for the management. In cross-examination the workman admitted his signatures on some documents.

I have gone through the evidence of the parties oral as well as documentary. I have also gone through the two charge-sheets levelling charges against the workman. I have also gone through the enquiry proceedings held by both the enquiry officers. One charge-sheet is dated 24th December, 1975 and the other is dated 16th October, 1975.—*vide* charge-sheet, dated 16th October, 1975 which is Exhibit M-3 the charges were that the workman concerned slept on duty and smokes Ganja and Charas. The workman in his reply Exhibit M-7 to this charge-sheet admitted that he smokes Charas and Ganja but elected that this habit was cultivated in him by one Shri Avasthi, the Management. Shri A. S. Sharma held the enquiry into this charge-sheet and found the workman concerned guilty of charges Nos. 2, 3 and 4 and exonerated the workman concerned from charges No. 1. The enquiry proceedings have been signed at several places by the workman concerned although at some other places he did not sign but there is an endorsement by the Enquiry Officer that the workman concerned refused to sign but there are signatures of the workman concerned that he had received the copies of the enquiry proceedings on 25th November, 1975 at 12.50 p.m. I do not find any fault in the enquiry proceedings. The workman concerned himself has admitted in his reply to the charge sheet, dated 16th October, 1975 that he smokes Charas and Ganja and that other also smokes Beri and Cigarette, although he blamed the management for cultivating this habit in him. I think that this is no defence to the charges smoking Charas and Ganja by the workman concerned that this habit was cultivated in him by the management, rather it is an admission by the workman concerned and it goes to prove his courage as to how far he can go to defend himself of his habit of smoking Ganja and Charas by levelling a counter charges against the management that they cultivated this habit in him. I, therefore, hold that the finding of Shri Anand Sarup Sharma the Enquiry Officer, dated 30th December, 1975, Exhibit M-17 is not vitiated. I have also gone through the enquiry proceedings held by Shri S.L. Avasthi the Enquiry Officer. Throughout that enquiry the workman concerned remained absent. I find Exhibit M-19 and M-24 and M-19/A and other A.D. Form by which registered letters were sent to the workman concerned. The charges levelled,—*vide* charges sheets Exhibit M-18 dated 24th December, 1975 are serious. The charges are that the workman concerned got Shri Narain Singh another Watchman beaten by his son named Shri Gori Shanker and when some other person reached the spot, the workman concerned made his son ride on the cycle and leave the place of occurrence. The Enquiry Officer examined one Shri Taluq Dar Singh M. W. 1 who deposed the facts occurring just after the occurrence and the occurrence of beating was narrated to him by Shri Narain Singh, the assaulted person. Similarly M. W. 2 Shri Durga Parshad deposed before the enquiry officer that Shri Narain Singh told him that he was beaten by the son of the workman concerned at the instigation of the workman concerned and Shri Narain Singh told this just when he reached the spot on hearing noise. M. W. 3 Shri Gobind Singh Rawat also deposed that he saw that the person was beaten by three persons on the spot of occurrence. The person assaulted was Shri Narain Singh and the workman concerned was standing there and as soon as this witness reached, the workman concerned made his son run away from that place by riding on a cycle and the assaulted person Shri Narain Singh told the name of the assaulter as Shri Gori Shanker and two other persons. Shri Partap Narain M. W. 4 also corroborated the same story and further added that the workman concerned threatened that if he was complained against something had might happened by using the words that by that time nothing bad had happened and the complainant should ponder over." M. W. 5 Shri Narain Singh the assaulter person, narrated the whole incident which has corroborated the charges levelled against the workman. He further deposed that there were two other persons together with Shri Gori Shanker the son of the workman concerned and the workman concerned told them to beat this witness and when some persons reached the spot the workman concerned made his son run away by riding on the cycle. The Enquiry Officer held the workman concerned guilty of the charges.

Moreover there is animus also. In previous enquiry held by Shri A. S. Sharma, the assaulted person Shri Narain Singh had deposed against the workman concerned and in subsequent enquiry it was stated by M. W. 5 Shri Narain Singh that the workman concerned told his son and other persons to beat M. W. 5, Shri Narain Singh as Shri Narain Singh used to complain.

After considering all the evidence, I find that the enquiry held by Shri Avasthi is also not vitiated. I, therefore, hold that both the enquiries held against the workman concerned are not vitiated and the misconduct of the workman concerned has been proved. In the circumstances, I decide issue No.1 which is the only issue framed in this case in favour of the management. I, therefore, give my award as follows:—

That the dismissal of Shri Ganesh Dutt Misra was justified and in order. He is not entitled to any relief.

NATHU RAM SHARMA.  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Dated the 19th January, 1978.

Endorsement No. 67, dated the 24th January, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated, the 24th January, 1978.

NATHU RAMA SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 1110-3Lab-78/1220.—In pursuance of the provisions of section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Barrysons (India) Pvt. Ltd., 1-45 D.L.F., Industrial Estates, Mathura Road, Faridabad :—

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,  
FARIDABAD

Reference No. 146 of 1976

between

HRI BISHANU PARSHAD WORKMAN AND THE MANAGEMENT OF M/S BARRYSONS (INDIA) PRIVATE  
LIMITED, 1-45, D.L.F, INDUSTRIAL ESTATES, MATHURA ROAD,  
FARIDABAD

Present :—

Shri Amar Singh Sharma for the workman.

Shri S. L. Gupta for the management.

#### AWARD

By order No. ID/FD/891-B-76/29066, dated 6th August 1976, the Governor of Haryana, referred the following dispute between the management of M/s Barrysons (India) Private Limited, 1-45, D.L.F., Industrial Estate, Mathura Road, Faridabad and its workman Shri Bishanu Parshad to this Tribunal, for adjudication in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Bishanu Parshad was justified and in order ? If not, to what relief is he entitled ?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. From the pleadings of the parties, the following issues were framed on 19th November, 1976 :—

- (1) Whether termination of services of the workman concerned was justified and in order ? If not, to what relief is he entitled ?
- (2) Whether the workman has raised the demand directly with the management as per requirement of law ? If not, to what effect ?
- (3) Whether the workman abandoned the services of the management of his own ? If so, whether the dispute does not fall under section 2-A of the I.D. Act.

The case was set for evidence of the workman. The workman examined himself and closed this case.

Then the case was set for the evidence of the management. The management examined one Shri N. S. Begana, their Accountant as M.W. 1 and closed their case.

Then the case was fixed for arguments. Arguments were heard.

I have gone through the entire evidence of the parties oral as well as documentary. I give my findings issue-wise. I shall discuss this issue No. 1 after discussions of issue Nos. 2 and 3, as it is necessary first to decide issue Nos. 2 and 3.

**Issue No. 2.**—The workman has proved his demand notice. It is proved sufficiently on the file that the workman raised the demand directly with the management. The demand notice is dated 23rd March, 1976 addressed to the management. I, therefore, decide issue No. 2 in favour of the workman.

**Issue No. 3.**—The workman in his claim statement and notice of demands has stated that his services were terminated on 20th March, 1976 at 2 P.M. The pleading of the management states that the workman absented from duty with effect from 21st March, 1976 without any information to them or without any sanction of leave. The workman in cross-examination has stated that he did not go to the factory after 20th March, 1976. M.W. 1 stated that when the workman absented, they wrote him a letter asking him to resume his duty. They also offered before the Conciliation Officer to take the workman back on duty and they stated before the Conciliation Officer that they had not terminated the services of the workman concerned, rather he himself did not attend his duty and was absent. He in cross-examination stated that the workman remained absent throughout from 22nd March, 1976 to 31st May, 1976. 21st March, 1976 being weekly holiday and he is marked absent throughout in the attendance register. The management had brought attendance register also. This witness further admitted that in the column of attendance, first "cross" was marked in pencil and then 'A' was written in ink. 'A' denotes absent but marking of "cross" in pencil also denotes absence. He stated that first the management marks "cross" in pencil for waiting for some communication from the workman and thereafter when neither the workman turns up nor sends any communication, 'A' is written in ink. There is no contradiction in this. I have gone through the copies of conciliation proceedings also in which the management has stated that they wrote a letter to the workman concerned, dated 27th March, 1976 by a registered A.D. asking the workman concerned to resume his duty and the workman received it. I have seen the postal receipt Exhibit M-2

and A.D. Form Exhibit M-3. Exhibit M-2 bear the seal of the post office and there are signatures on Exhibit M-3 in token of receiving the registered letter. Exhibit M-4 is the copy of letter written by the management to the Labour-cum-Conciliation Officer in conciliation proceedings asking the workman concerned to resume his duty and telling him that the management had not terminated his services. The workman also produced a copy of conciliation proceedings together with its forwarding letter. It is also mentioned therein that the management stated before the Conciliation Officer that they wrote him a letter, dated 27th March, 1976 sent by registered A.D. asking the workman concerned to resume his duty. This letter was received by the workman and that in case the workman did not turn up, it shall be resumed that he had no interest in resuming his duty and thereafter his name shall be struck off the file and then it shall be considered that the workman himself has abandoned his job. The workman received this letter on 2nd April, 1976. I also find an endorsement on Exhibit M-3, A.D. form which reads as follows :—

“Received”

“Initials”

“2-4-76”

Hence the statement in conciliation proceedings is corroborated from A.D. Form. Similarly the statement of M.W. I find corroboration from the documentary evidence. It is clear that the management asked the workman to resume his duty, vide his letter, dated 27th March, 1976 and sent it by registered post which was received on 2nd April, 1976. Similarly the written comments filed by the management before the conciliation officer also narrate that the management was asking the workman to resume his duty and was prepared to take him back on duty. This fact is also corroborated in conciliation proceedings Exhibit M-5, contents whereof has been mentioned above. The workman also filed a copy of conciliation proceedings but did not tender it in evidence as it is not exhibited but Exhibit M-5 and this copy produced by the workman are one and the same thing in the subject and substance. There is no difference at all. In spite of all this documentary evidence, which was in the know of the workman, the workman did not attend the factory after 20th March, 1976, as he himself have admitted this fact in cross-examination and the management struck his name off the rolls after 31st May, 1976, waiting for a sufficient long period. The admission of the workman in his cross-examination that he did not go to all the factory after 20th March, 1976, considering together with documentary evidence of the management, leads me to conclude that the workman himself abandoned his job. It is clear from conciliation proceedings that the management stated that if the workman did not present himself, it shall be considered that the workman himself has abandoned his job. The management made this statement in the presence of the representative of the workman. If the workman wanted his job, he should have contacted the Labour-cum-Conciliation Officer that the management did not take him back on duty after when they stated before the Conciliation Officer that they were prepared to take him back on duty. But the fact is this that the workman never went to the factory after 20th March, 1976 as admitted by him and when conciliation proceedings took place on 23rd March, 1976, even thereafter the workman did not go to the factory. I, therefore, decide issue No. 3 in favour of the management.

*Issue No. 1.*—In view of my finding on issue No. 3, the issue No. 1 does not arise. The question of termination of services of the workman concerned by the management does not arise, when I have held issue No. 3 in favour of the management, holding that the workman himself abandoned his job.

As a result of my finding on the issues, I give my award as follows :—

That the termination of services of Shri Bishanu Parshad never took place and the management did not terminate his services. It was the workman Shri Bishanu Parshad who abandoned his job himself by not attending the factory in spite of calls by the management, and by remaining absent for a sufficient long time.

NATHU RAM SHARMA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Dated 25th January, 1978.

No. 77, dated 27th January, 1978.

Forwarded (four copies to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Dated 27th January, 1978.

No. 1112-3Lab-78/1224.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Dalmia Dadri Cement Ltd., Charkhi Dadri.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER/INDUSTRIAL TRIBUNAL, HARYANA,  
FARIDABAD

Reference No. 53 of 1972

between

The workmen and the management of M/s Dalmia Dadri Cement Ltd, Charkhi Dadri.

Prerent.—

Shri Bhim Sain Parbakar, for the Man's Union.

Shri Hari Singh, Cement Udyog Kamgar Sangh.

Shri S.N. Bhandari and Shri S.D. Vashist, for the management

## AWARD

By order No. ID/HSR/IE-72/34990, dated 18th September, 1972, the Governor of Haryana, referred the following disputes between the management of M/s Dalmia Dadri Cement Ltd., Charkhi Dadri and its workmen to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

1. Whether the following workmen should be treated as regular workmen of the factory and given the benefits as extended to the workers of the factory ? If so, with what details :—
  1. Shri Bal Ram
  2. Shri Devnandan Singh
  3. Shri Jadu Ram
  4. Shri Sharat
  5. Shri Ram Pal Singh.
  6. Shri Hari Singh, son of Harnam
2. Whether the workmen of the factory and also the Contractor's employees should be granted bonus for the year 1971 at higher rates than 4 per cent minimum bonus already announced by the management ? If so, with what details ?
3. Whether the workmen of moulding shop should be provided shoes and given heat allowance ? If so, with what details ?
4. Whether the sweepers should be given the following facilities :—
  - (I) Shoes (II) Tha Tha, (III) Grade 'C' ? If so, with what details ?
5. Whether sewadars should be provided shoes ? If so, with what details ?
6. Whether the Chowkidars mentioned in annexure 'A' should be designated as Gunmen and paid 20 per cent as Gun allowance in addition to their existing wages ? If so, with what details ?

The parties examined their witnesses and closed their case. Arguments were heard. I give my findings issue wise.

## Issue No. 1

Shri Balram W.W. 1 has stated that he is working in the factory since 1969 continuously and prior to that he worked as a Tester and clerk from May, 1965 to September, 1967. The management cross examined him in detail but could not bring any point in his favour. I, therefore, find that Shri Balram is to be treated on the rolls of the factory. It has to be decided as to since when is he to be so treated. Shri Balram has stated that he has been continuously working since 1969. But this demand was raised in a meeting of the union dated 1st May, 1972 and the demand notice is dated 2nd/9th May, 1972. In the circumstances I think it is justiciable to treat him on the rolls of the factory since 1st May, 1972. Shri Balram has also stated that he be made permanent also in his statement as witness. The reference was made in the year 1972. He has not given as to since when he should be made permanent. In the interest of justice and considering the period through which this reference has proceeded, I think that it would be harsh for the management if Shri Balram be made permanent with effect from preceding years. I, therefore, think that it would meet the ends of justice for both the parties if he is made permanent with effect from 1st January, 1978 (from the commencement of this year). Similar is the statements of Sarvshri Dev Nandan Singh W.W. 2, Jadu Rai W.W. 4, and Hari Singh W.W. 5 I, therefore, hold that they should be placed at par with Shri Balram and be treated alike.

Then I come to the statement of Shri Sharat W.W. 3 who stated that he has also been working as a cook in the Guest House and that he has not been given any benefit except his wages. But in cross-examination he stated that his attendance was not marked. He denied a suggestion that he was working at the residence of the Secretary of the factory and was being paid by him as his domestic servant. But on the file of this reference I find a letter addressed to this Tribunal sent by this workman Sharat that he has settled his dispute and his case be treated as settled and withdrawn and none is authorised to represent and pursue his case. Similarly there is settlement also dated 8th May, 1975 signed by this workman Shri Sharat, by which he had also withdrawn his dispute. In the circumstances I cannot decide Issue No. 1 in favour of Shri Sharat.

Another workman Shri Ram Pal appeared as W.W. 13 who stated that he was working as a Turner since 1966-67. There were other turners also named Sarvshri Bhagwan Dass, Roop Chand, Ram Singh, Nandinder Kumar, Lachhi Ram, Hari Parkash etc. He further stated that he also performed the same duty as the other turners and that his duty hour and of other turners were similar. He stated in examination in chief that his attendance was marked in the time office as was done in the case of other regular turners. In cross-examination he stated that he was not given any appointment letter by the management, and also was not getting wages from the time office. He further admitted in cross-examination that he worked on contract basis. In the circumstances I do not find Issue No. 1 in his favour.

## Issue No. 2

Issue No. 1 has been found in favour of Sarvshri Balram, Dev Nandan Singh, Jadu Rai and Hari Singh, but it is not proved in favour of Shri Sharat and Ram Pal Singh. It effects on Issue No. 1 is that Sarvshri Balram, Dev Nandan Singh, Jadu Rai and Hari Singh shall be treated on the rolls of the factory of the management on and from 1st May, 1972 and shall be treated as permanent employees of the management with effect from 1st January, 1978. As far as Shri Sharat and Ram Pal Singh are concerned, the effect of non-proof of Issue No. 1 in their connection would be that they should not be treated as regular workmen of the factory.

## Issue No. 3.

I have considered the evidence of the parties on this Issue. This issue involves financial implications. I believe the statement of M.W. 1 Shri S.K. Sharma, Controller of Accounts of the management who had deposed that the company had suffered heavy losses and that the same has remained closed for most of the period and that the company suffered losses for the year 1976 in tune of Rs 86,00,000. In the circumstances I do not find Issue No. 3 in favour of the workmen. Whenever the financial position of the company improves the workmen may raise this demand again.

*Issue No. 4*

I decide issue No. 4 as according to issue No. 3. The sweepers are already entitled to get Datha cloth as per the award of the Industrial Tribunal in reference No. 30 of 1967 and they shall continue to get the same.

*Issue No. 5*

Issue No. 5 also involves financial implications and therefore, it cannot be decided in favour of the workmen.

*Issue No. 6*

W.W. 8 Shri Ami Lal, W.W. 9 Shri Nihal Singh, W.W. 10 Shri Ram Dahyia, W.W. 11 Shri Ram Pat, have stated that they are handling Gun and be paid Gun Allowance. As against it Shri S.D. Vashist the Factory Manager has stated that they have handling the Gun since ever and the Assessor who fixed the Chowkidar in 'D' grade had considered this fact. I do not think that if a Chowkidar handles a Gun he may be paid any additional Gun Allowance. I therefore, decide issue No. 6 against the workmen.

The representative for the management had prayed for permission to file a supplementary written statement on the ground that they want to take an additional plea. The parties were heard and thereafter the following two issues were framed on 14th November, 1977:—

(7) Whether Sarvshri Balram and Hari Singh are the employees and working in the quarry?

(8) If issue No. 7 is proved whether the reference is bad in whole or in part for want of jurisdiction?

*Issue No. 7.*—By my finding on issue No. 1, issue No. 7 stands decided as according to my finding on issue No. 1.

*Issue No. 8.*

Issue No. 7 has not been proved in favour of the management and, therefore, I decide issue No. 8 against the management.

In view of my finding on all the issues, I give my award as follows:—

*Dispute No. 1.*—Sarvshri Balram, Dev Nandan Singh, Jadu Rai, Hari Singh should be treated on the rolls of the factory with effect from 1st May, 1972. They be also treated as permanent with effect from 1st January, 1978. Sarvshri Sharat and Ram Pal Singh are not to be treated as regular workman of the factory, hence the question of benefit to them as extended to other workers does not arise.

*Dispute No. 2.*—Neither the workman of the factory nor of the Contractors should be granted bonus for the year 1971 at higher rates than 4 per cent minimum bonus already announced by the management. No details are necessary.

*Dispute No. 3.*—Workmen of Moulding Shop are not entitled to shoes and heat allowance but as soon as the financial position of the company improves, they may raise the demand again which shall be considered at that time afresh.

*Dispute No. 4.*—The Sweepers are getting Dhata Cloth, as is mentioned in item No. 2 under this dispute, as per the above said previous award of this Tribunal. As far as shoes are concerned they may raise the demand when the financial position of the company improves. As regards Grade 'C' is concerned, the Sweepers could not make out any case, hence they are not entitled to grade C.

*Dispute No. 5.*—At present the sewadars should not be provided shoes till the financial position of the company improves which shall be considered at that time.

*Dispute No. 6.*—The Chowkidars mentioned in annexure 'A' should neither be designated as Gunman nor paid Gun allowance in addition to their existing wages till the assessor re-assesses this demand, if and when appointed hereafter, or till the financial position of the management improves.

Dated 24th January, 1978.

NATHU RAM SHARMA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 75, dated the 27th January, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 27th January, 1978.

NATHU RAM SHARMA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

The 10th February, 1978

No. 1429-3 Lab-78/1290.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s. Printers (P) Ltd., Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 42 of 1969 and Reference No. 118 of 1975

between

THE WORKMEN AND THE MANAGEMENT OF M/S PRINTERS HOUSE (P) LIMITED, FARIDABAD

Present:—

Nemo, for the workmen.

Shri R. C. Sharma, for the management.

#### AWARD

By order No. ID/FD/210-A/27380, dated 3rd October, 1969 and No. ID/FD/75/51227, dated 22nd July, 1975, the Governor of Haryana, referred the following disputes between the management of M/s Printers House (P) Limited, Faridabad and its workmen, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Reference No. 42 of 1969 :—

Whether the workmen should be given dearness allowance. If so, with what details and from which date ?

Reference No. 118 of 1975 :—

Whether the grades and scales of pay of workmen should be revised ? If so, with what details ?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. From the pleadings of the parties, the following issues were framed by my learned predecessor on 1st December, 1969 in reference No. 42 of 1969.

- (1) Whether the reference is not valid because the present dispute has not been espoused by a substantial number of workmen of the respondent factory ?
- (2) Whether the present dispute has not been properly raised ?

The case was fixed for the evidence of the parties. The parties examined their witnesses. Preliminary issues Nos. 1 and 2 were decided against the management in reference No. 42 of 1969 and the case was fixed for further proceedings. Thereafter further proceedings in this reference were stayed by the order of the Hon'ble the High Court for Punjab and Haryana at Chandigarh. The parties made an application dated 30th November, 1977 that this reference as well as other reference No. 118 of 1975 (both) have been settled between the parties and award be given in both the references in terms of the settlement, dated 27th November, 1977. They filed photostat copy the settlement also. The management proved settlement also by examining their two witnesses Shri Ram Lal Sharma, Treasurer, Bhatia Mazddor Sangh Haryana as M. W. 5 who stated that the Engineering Karamchari Singh comprising the workmen of the management is affiliated to his body and that the workmen of the management had gone on strike, negotiations had taken place. He was a witness thereto. The conciliation officer was also there and the settlement photostat copy Exhibit M. W. 5/1 was arrived at. The original settlement was also brought by the management and this witness had seen the original. He admitted his signatures and identified the signatures of Shri Budi Singh. M. W. 2 Shri K. K. Rai also proved the settlement. The former representative of the workmen was absent as the workman had organised a new union. M. W. 6 Shri Amar Singh Yadav, Labour-cum-Conciliation Officer, Faridabad, also proved the settlement and stated that there was a strike in the factory, and he intervened to resolve the dispute as a result where of this settlement was arrived at which is under section 12 (3) of the Industrial Disputes Act. The management closed their case. I am satisfied that the settlement is genuine fair reasonable and just. It has been arrived at legally through the intervention of Conciliation Officer and this legal settlement under section 12(3) of the Industrial Disputes Act. This settlement covers both the references cited above. I, therefore, give my award in terms of the settlement and as per the settlement. The settlement shall form the award. This award disposes of both the references cited above. The management has stated that they shall withdraw the writ petition, pending in the Hon'ble High Court.

NATHU RAM SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Dated 31st January, 1978.

Endorsement No. 101, dated 1st February, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947 together with requisite number of copies of the settlement.

NATHU RAM SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Dated 1st February, 1978.

#### MEMORANDUM OF SETTLEMENT

(Under Section 12(3) of the Industrial Disputes Act, 1947).

Name of Parties :—

- (1) M/s The Printers House (P) Limited, 22/2, Mathura Road, Ballabgarh.



(2) workmen of the Printers House (P) Limited, Ballabgarh through Engineering Karamchahi Sangh affiliated to B. M. S.

Representative of management :—

... Mr. K. K. Rai, Factory Manager.

Representatives of workman :—

... Workmen in person.

Short Recital of the case :—

Workmen submitted a Charater of Demands dated 27th September, 1977, received by the management on 28th September, 1977. While negotiations were in process workmen resorted to strike with effect from 19th October, 1977 in violation of section 23 and 24 of the Industrial Disputes Act. During the period of this strike the Management held negotiations with the workmen from time to time. As a result of the negotiations a settlement has been arrived at and accordingly the settlement is signed by the parties on the following terms and conditions after the intervention of the Labour-cum conciliation Officer, Ballabgarh Sector 7, Faridabad :—

#### TERMS OF SETTLEMENT

(1) (a) The workmen agreed to call off their strike and resume their normal duties with effect from 28th November, 1977.

(b) It is agreed that the workmen are not entitled to any wages for the strike period from 19th October, 1977 till the workmen resume their duties except one Dushehra and one Holiday each for Dewali and Vishwakarma.

(c) The workmen who are confirmed in employment will be given an advance of Rs 100 (Rupees one Hundred only) recoverable from salary in two instalments.

(d) If the workmen have any earned leave in their credit the same will be adjusted on individual application to meet the hardship of the workmen against the strike period.

(2) (a) It is agreed between the parties that the revised grades and scales so settled and incorporated in the agreement dated 24th December, 1975 already submitted to the Industrial Tribunal, Haryana, Faridabad in reference No. 118 of 1975 shall remain inforce and binding.

(b) It is further agreed that over and above those scales of pay and wages every workmen shall be allowed to a fixed Dearness Allowance amount of Rs. 22.50 (Rupees Twenty-two and paise Fifty only) w. e. f. the date the workers resume their duties which is linked with the Consumer Price Index figures of 146 for working class as issued by Haryana Government for Faridabad for the base year 1972-73. This payment will be applicable to all the confirmed employees drawing a salary upto Rs. 649 P.M. In case the Index No. increases the Dearness Allowance shall be increased @ Rs. -/75 paise per point over and above 146 points. The increase and decrease beyond 146 points will be calculated on the six monthly average on 1st January and 1st July of the year.

(3) It is agreed that the workmen shall not proceed and persue Reference No. 118 of 1975 and 42 of 1969 pending before Industrial Tribunal Haryana, Faridabad as the concerned disputes stand settled and the workman are satisfied with the terms and conditions of this settlement. The Management agreed to withdraw the writ from the High Court in respect of D. A. case. It is further agreed by both the parties that a joint request is made herewith to the Industrial Tribunal Haryana, Faridabad to decide the issues accordingly.

(4) All types of legal leaves will be granted to all the workmen as per statutory provisions.

(5) As a special case management agrees to issue one uniform of Cotton Cloth on Dushehra occasion in the year 1978 without any precedent for future.

(6) It is agreed by the workmen that the Demand Notice dated 27th September, 1977 stands completely settled and hence withdrawn. They further agree that they will not reagitate in respect of the demands contained in the Demand Notice 27th September, 1977.

(7) It is agreed that the settlement shall remain inforce and binding till 24th December, 1980 and during this period the workmen shall not resort to any direct action which may cause obstruction in production and jeopardise the Industrial Peace. It is further agreed that no financial demand shall be raised or agitated during this period.,

Workmen of the Printers House Private Limited.

(Sd.) . . .

BUDHI SINGH,

Secretary B. M. S.

(Sd.) . . .

RAM LAL,

Cashier B. M. S.

(Sd.) . . .

SATISH PARKASH,

(Sd.) . . .

(Workmen of the Printers House Private Limited.)

For Management.

(Sd.) . . .

K. K. RAI,

Factory Manager.

Signed in my presance.

(Sd.) . . .

(A. S. YADAV).

Conciliation Officer, Ballabgarh Circle,

Witness (1) (Sd.) . . .

POORAN SINGH.

(Sd.) . . .

(2) R. C. SHARMA,

NATHU RAM,

Presiding Officer.

Industrial Tribunal Haryana,  
Faridabad.